<http://www.caclubindia.com/forum/message_display.asp?group_id=51671>

<http://www.docstoc.com/docs/15138542/Direct-taxes>

# Notes on Direct Taxes

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**1. Basic**

# Definitions:

# 1. Section 2(1A) Agricultural income UUU U

(*a*) Income from land which is situated in India and is used for agricultural purposes.

Income from farm Building is considered as agriculture Income:

1. It should be occupied by the cultivator or receiver of rent or revenue
2. The building is on or in the immediate vicinity of the land
3. Building can be used as dwelling house or store house or out-house
4. The land is assessed to land revenue if not land shall not be situated
5. Within municipality with not less than 10,000 population as per last census on the 1st day of pervious year
6. Within 8 Kilometers from the notified local limits
7. Income derived from letting out the land or building for the residential purpose or for business or profession is not an agriculture Income.

**Note**: Any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income.

**2. Section 2(7)Assessee:**

Assessee means a person liable to pay any Tax or any other sum of money under the Income tax act.

**3. Section 2(9) Assessment Year:**

The period of 12 months commencing on the first day of April of every year

**4.Section [(12A) Books or Books of account**:

ledgers, day-books, cash books, account-books and other books, whether kept in the written form or as print-outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device;]

**5. Section (31) Person :** It Includes

An individual, Hindu undivided family, company, firm, association of persons, a body of individuals, local authority, every artificial juridical person

**Note**: association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains.

**6. Section2 (24) Income**: Includes

* Profit and gains of business or profession.
* Dividends
* Voluntary contributions received by a charitable or religious purposes or by an institution established hospital or other institution
* The value of any perquisite or profit in lieu of salary taxable
* Interest, salary, bonus, commission or remuneration earned by a partner of a firm
* Capital gains chargeable U/s 45
* The profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society
* Any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever
* Any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund
* Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.
* Benefit or perquisite received from a company, by a director or a person holding substantial interest or a relative of the director or such person.
* Gifts U/s 56(2)(Vi)

**7. Section3 Pervious Year**:

Financial year immediately preceding the assessment Year.

Exception in the following cases:

1. Shipping business of non- resident (section 172)
2. Person Leaving India (section 174)
3. AOP or BOI or Artificial Juridical person formed for a particular event or purpose (Section 174A)
4. Person likely to transfer property to avoid Tax (Section 175)
5. Discontinued Business ( Section 174)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Particulars | Section 10A | Section 10AA | Section 10B | Section 10BA |
| **Eligible Assessee** | **Special provision in respect of newly established undertakings in free trade zone, etc.** | **Special provisions in respect of newly established Units in Special Economic Zones** | **Special provisions in respect of newly established hundred per cent export-oriented undertakings** | **Units Exporting article or things** |
| Nature of Business | Manufacture/produce article or things or computer software | Manufacture/produce article or things or computer software or provide services | Manufacture/produce article or things or computer software | Manufacture/producer of Eligible article or things(Min. export is 90% to total Turnover) |
| Special Reserve account and conditions relating for additional reserve | Applicable | Applicable | Not Applicable | Not Applicable |
| Audit report | FORM 56F | FORM 56F | FORM 56G | FORM 56H |
| Form for return for particulars of New machinery | Form 56FF | Form 56FF | - | - |
| Proceeds of sale to be received with 6 months in convertible foreign exchange | Within 6 Months | Within 6 Months | - | Within 6 Months |
| Deduction | Year 1-5 100% Export profit  Year 6-7 50% export profit  Year 8-10 50% export profit or credit to special reserve | Year 1-5 100% Export profit  Year 6-7 50% export profit  Year 8-10 50% export profit  Year 11-15 50% export profit  or credit to special reserve | 100% of Export profit | 100% of Export Profit |
| Deduction applicable till assessment | 2011-12 | Not specified | 2011-12 | 2009-10 |

TDS Rates

Individual

|  |  |  |  |
| --- | --- | --- | --- |
| Section/Nature | Assessment year 2009-10  Less than Greater than  10 Lakhs 10 Lakhs | Assessment year 2010-2011(W.e.f 1-10-2009) | Exemption Limit |
| 192-Salary | As applicable to As applicable to  Individual Individual | As applicable to Individual | Basic Exemption |
| 193-Interest on Securities | 10.3% 11.3% | 10% | Exempted for certain listed securities u/s 193.Listed Debentures Rs.2,500/- |
| 194A- Interest other than interest on Securities | 10.3% 11.3% | 10% | Rs.10,000/- if payment made by Banking co., co-operative society, post office .Rs.5,000/- made by any other person |
| 194B-Winning from lottery/cross word puzzle | 30.9% 33.99% | 30% | Rs.5,000/- |
| 194BB-Winning from Horse race | 30.9% 33.99% | 30% | Rs.2,500/- |
| 194C-Contractor | 2.06% 2.266%% | 1% | Payment in excess of Rs. 20,000/- per contract or Rs. 50,000/- per annum. |
| 194C-Sub contractor/Advertising contract | 1.03% 1.133% | 1% | ------do------- |
| 194D-Insurance  Commission | 10.3% 11.33% | 10% | Rs.5,000/- |
| 194EE-National Savings Scheme | 20.6% 22.66% | 20% | Rs.2,500/-or payment is made to heirs of the deceased assessee |
| 194F-Equity linked savings scheme | 20.6% 22.66% | 20% | - |
| 194G-Commission on sale of Lottery tickets | 10.3% 11.33% | 10% | Rs.1,000/- p.a |
| 194H-Commisssion or Brokerage | 10.3% 11.33% | 10% | Rs.2,500/- |
| 194I-Rent  a. Land, building & Furniture  b. Plant & machinery | 15.45% 16.995%  10.3% 11.33% | 10%  2% | Rs.1,20,000 in a financial year |
| 194J-Professional or technical; fees | 10.3% 11.33% | 10% | Rs.20,000/- in financial year |
| 194LA-Compensation /Enhances compensation on compulsory acquisition | 10.3% 11.33% | 10% | Rs.1,00,000/- in the financial year |

Company/Firms

|  |  |  |  |
| --- | --- | --- | --- |
| Section/Nature | Assessment year 2009-10  Less than Greater than  1 crore 1 crore | Assessment year 2010-2011(W.e.f 1-10-2009) | Exemption Limit |
| 192-Salary | As applicable to As applicable to  Individual Individual | As applicable to Individual | Basic Exemption |
| 193-Interest on Securities | 20.6% 22.66% | 20% | Exempted for certain listed securities u/s 193.Listed Debentures Rs.2,500/- |
| 194A- Interest other than interest on Securities | 20.6% 22.66% | 20% | Rs.10,000/- if payment made by Banking co., co-operative society, post office .Rs.5,000/- made by any other person |
| 194B-Winning from lottery/cross word puzzle | 30.9% 33.99% | 30% | Rs.5,000/- |
| 194BB-Winning from Horse race | 30.9% 33.99% | 30% | Rs.2,500/- |
| 194C-Contractor/Cub contractor/Advertising contract | 2.06% 2.266%% | 2% | Payment in excess of Rs. 20,000/- per contract or Rs. 50,000/- per annum. |
| 194D-Insurance  Commission | 20.6% 22.66% | 20% | Rs.5,000/- |
| 194EE-National Savings Scheme | 20.6% 22.66% | 20% | Rs.2,500/-or payment is made to heirs of the deceased assessee |
| 194F-Equity linked savings scheme | 20.6% 22.66% | 20% | - |
| 194G-Commission on sale of Lottery tickets | 10.3% 11.33% | 10% | Rs.1,000/- p.a |
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| 194I-Rent  a. Land, building & Furniture  b. Plant & machinery | 20.6% 22.66%  10.3% 11.33% | 10%  2% | Rs.1,20,000 in a financial year |
| 194J-Professional or technical; fees | 10.3% 11.33% | 10% | Rs.20,000/- in financial year |
| 194LA-Compensation /Enhances compensation on compulsory acquisition | 10.3% 11.33% | 10% | Rs.1,00,000/- in the financial year |

Note:

A .For the assessment year 2010-11 the rate of TDS will be 20% in all cases if PAN no. is not quoted by the deductee w.e.f 01-04-2010

B. The nil rate will be applicable if the transporter quotes his PAN .If PAN is not quoted the rate will be 1% for an individual, HUF transporter and 2% for other transporters up to 31-03-2010

C. AY 2009-10-In case of Individual, HUF if the payment exceeds 10 lakhs –surcharge @10%+EC@2%+SHEC @1% is applicable (if not exceeds EC and SHEC is applicable)

In case of company, firms if the payment exceeds 1 crore–surcharge @10%+EC@2%+SHEC @1% is applicable (if not exceeds EC and SHEC is applicable)

D. AY 2010-2011-Surcharge and education cess on tax Deducted on Non-salary payments made to resident taxpayers is proposed to be removed

EC-Education Cess SHEC –Secondary higher education cess

# Other Points:

1. TDS shall be deducted at the time of payment or at the time of credit whichever falls earlier
2. **Time of remittance to the Government**:
3. In case of deduction by or on behalf of the Government ,TDS shall be remitted on the same day
4. TDS made every month shall be deposited within one week from the last of the month in which deduction is made
5. TDS made on the last day of the accounting year ,shall be deposited within 2 months from the end of the relevant accounting year
6. **TDS certificates FORMS:**
7. Salary-FORM 16
8. Employees gross salary less than 1,50,000 and do not any income under the head profit and gains of business or profession or capital gains-FORM 16AA
9. For Non-salary-FORM 16A
10. **Issue of TDS Certificate**:
11. Section 192-With one month from end of relevant financial year
12. For non-salary-If TDS is deducted Every month then within 1 month for the end of the month in which tax was deducted

-If TDS deducted on the last day of the accounting year then within one week from the end of the two months (before 7th June of relevant assessment year)

1. **Quarterly return and Due date**

|  |  |  |
| --- | --- | --- |
| Section | From no. | Due date |
| 194 | 24Q | I quarter -15th July  II quarter – 15th October  III quarter - 15th January  IV quarter – on or before 15th June of the financial year |
| 193 to 194J | 26Q | ------do------- |

Section 194E, 195,196B to 196D-From no.27Q and due date is 14 days from the end of the quarter

1. **Section 206C Tax Collection at source**.

Seller of a particular commodity shall collect tax from the buyer for the following nature of goods.

Buyer means a person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified

or the right to receive any such goods but does not include

(*i*) a public sector company, the Central Government, a State Government, and an embassy, a high commission, legation, commission, consulate and the trade representation, of a foreign State and a club

(*ii*) a buyer in the retail sale of such goods purchased by him for personal consumption

(*b*) scrap means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons;

(*c*) seller means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society and also includes an individual or a Hindu undivided family whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under section 44AB During the financial year immediately preceding the financial year in which the goods of the nature specified

**Specified Goods Rate of tax to be collected**

Alcoholic Liquor for human consumption 1%

Tendu leaves 5%

Timber obtained under a forest lease 2.5%

Timber obtained by any mode other than under a forest lease 2.5%

Any other forest produce not being timber or tendu leaves 2.5%

Scrap 1%

Parking lot 2%

Toll plaza 2%

Mining and quarrying 2%

**Note**:

1. Section 206C-Quarterly return is filed in FORM no.27EQ and the due dates are as followes

I quarter -15th July

II Quarter -15th October

III Quarter – 15th January

Last quarter – on or before 30th April of Financial year

2. AY 2009-10-In case of Individual, HUF if the payment exceeds 10 lakhs –surcharge @10%+EC@2%+SHEC @1% is applicable

In case of company, firms if the payment exceeds 1 crore–surcharge @10%+EC@2%+SHEC @1% is applicable